

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

KLEEN PRODUCTS LLC; R.P.R.
ENTERPRISES, INC.; MIGHTY PAC,
INC., FERRARO FOODS, INC.; FERRARO
FOODS OF NORTH CAROLINA, LLC;
DISTRIBUTORS PACKAGING GROUP,
LLC; RHE HATCO, INC.; THULE, INC.;
and CHANDLER PACKAGING, INC,
individually and on behalf of all those
similarly situated,

Plaintiffs,

v.

PACKAGING CORPORATION OF
AMERICA; INTERNATIONAL PAPER;
CASCADES CANADA, INC.;
NORAMPAC HOLDINGS U.S. INC.;
WEYERHAEUSER COMPANY;
GEORGIA PACIFIC LLC; TEMPLE-
INLAND INC.; TIN INC.; and SMURFIT-
STONE CONTAINER CORPORATION

Defendants.

Case No. 1:10-cv-05711

Judge Milton I. Shadur

**DEFENDANT INTERNATIONAL PAPER COMPANY’S MOTION TO DISMISS THE
CONSOLIDATED AND AMENDED COMPLAINT**

Defendant International Paper Company (“International Paper”), by its undersigned attorneys, respectfully moves this Court pursuant to Fed. R. Civ. P. 12(b)(6) for entry of an order dismissing the Consolidated and Amended Complaint filed on November 8, 2010 by Plaintiffs Kleen Products LLC, R.P.R. Enterprises, Inc., Mighty Pac, Inc., Ferraro Foods, Inc., Ferraro Foods of North Carolina, LLC, Distributors Packaging Group, LLC, RHE Hatco, Inc., Thule, Inc. and Chandler Packaging Group, Inc. individually and on behalf of a class of those similarly situated. As set forth fully in the accompanying Joint Memorandum in Support and in

International Paper's Supplemental Memorandum in Support, which are incorporated herein by reference, the Consolidated and Amended Complaint fails to state a claim under Section 1 of the Sherman Act against International Paper under the pleading standards set forth in Fed. R. Civ. P. 8 and by the Supreme Court in *Bell Atlantic Corporation v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009).

WHEREFORE, International Paper respectfully requests that this Court enter an order granting this motion and dismissing the Consolidated and Amended Complaint.

DATED: January 14, 2011

Respectfully submitted,

/s/ Nathan P. Eimer

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Counsel for International Paper Company

CERTIFICATE OF SERVICE

The undersigned certifies that on January 14, 2011, a true and correct copy of the foregoing **Defendant International Paper Company's Motion to Dismiss the Consolidated and Amended Complaint** was electronically filed with the Clerk of the Court for the Northern District of Illinois using the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Nathan P. Eimer

Nathan P. Eimer

An Attorney for Defendant International Paper Company